

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

JERRY O'NEAL ELAM,

Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:17-CV-191

ORDER ADOPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
and DENYING PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner has filed an application for a writ of habeas corpus challenging a state prison disciplinary decision. On January 11, 2018, the United States Magistrate Judge issued findings, conclusions and a recommendation in this cause, recommending therein that the habeas application be denied because petitioner is not eligible for mandatory supervised release. No objections to the Findings, Conclusions and Recommendation have been filed as of this date.

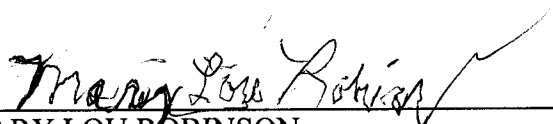
“As a general rule, only sanctions which result in loss of good conduct time credits for inmates who are eligible for release on mandatory supervision or which otherwise directly and adversely affect release on mandatory supervision will impose upon a liberty interest.” *Spicer v. Collins*, 9 F.Supp. 2d 673, 685 (E.D. Tex. 1998) (citing *Orellana v. Kyle*, 65 F.3d 29, 31-33 (5th Cir. 1995), *cert. denied*, 516 U.S. 1059 (1996)). Petitioner is not eligible for release on mandatory supervision; therefore, any forfeited good time credits apply only toward his eligibility for parole. Prisoners in Texas possess no constitutionally protected right to release on parole as such release is discretionary. Because petitioner is ineligible for early release under

the Texas mandatory supervision scheme, he has no constitutionally protected interest in previously earned good-time credits.

The undersigned United States Senior District Judge has made an independent examination of the record in this case. The Magistrate Judge's Findings, Conclusions and Recommendation is hereby ADOPTED. Accordingly, the application for a writ of habeas corpus filed by petitioner is DENIED.

IT IS SO ORDERED.

ENTERED this 30th day of January 2018.



MARY LOU ROBINSON
UNITED STATES SENIOR DISTRICT JUDGE